



NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE, AH2
ARLINGTON VA 22204-1373

November 29, 2012

Office of the Chief Counsel

Michael Vaughan
c/o MuckRock News
Dept MR 1118
P.O. Box 55819
Boston, MA 02205-5819

Dear Mr. Vaughan:

This letter is in response to your Freedom of Information Act (FOIA) request to the Kentucky Army National Guard (KY ARNG) dated February 22, 2012 for all records referencing an investigation involving COL Hunter Matthews and a female complainant at the Boone National Guard Center located in Frankfort, KY (case #FA-13-0006).

With respect to the named individual, lacking his consent, an official acknowledgement of an investigation or an overriding public interest, even to acknowledge the existence of such records pertaining to this individual could reasonably be expected to constitute an unwarranted invasion of his personal privacy. As you have not provided us with the name of an agency official that has publically acknowledged the investigation you are requesting, and I am not aware of any such acknowledgement, I will neither confirm nor deny that any records exist and we have not directed any offices to conduct a search to determine whether responsive records exist. This denial action is being made pursuant to the FOIA, 5 U.S.C. § 552 (b)(5), (b)(6), (b)(7)(A), and (b)(7)(C).

Exemption (b)(5) allows for the withholding of inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. Should a record exist, this exemption would protect any material that is deliberative in nature or protected under the attorney work-product or attorney-client privilege that would be exempt from release.

Exemption (b)(6) protects personnel, medical, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Should a record exist, this exemption, along with exemption (b)(7)(C) would protect the release of information that could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Exemption (b)(7)(A) allows for the withholding of information that could reasonably be expected to interfere with enforcement proceedings. Should a record exist, this exemption would protect any records in open investigations or ongoing enforcement proceedings.

If you are not satisfied with this action, you may appeal to the appellate authority, the Secretary of the Army within 60 days from the date of this letter. Your appeal should include copies of your original request and this response, as well as a discussion of the reasons supporting your appeal. The envelope should be plainly marked to indicate that it contains a Freedom of Information Act appeal. If you decide to appeal, please send your appeal to:

Office of Information and Privacy (NGB/JA-OIP)
111 South George Mason Drive, AH2
Arlington, Virginia 22204-1373

If you have any questions regarding this request, please contact Ms. Jennifer Nikolaisen, NGB Chief FOIA Officer, at (571) 256-7838 or by e-mail FOIA@ng.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Rofrano".

Christian Rofrano
Colonel, US Army
Chief Counsel
National Guard Bureau